
(2007) 02 JH CK 0008
In the Jharkhand High Court

Shrikrishna Prasad Sinha

APPELLANT

Vs

State of Jharkhand and Others

RESPONDENT

Date of Decision : 15-02-2007

Acts Referred:

Constitution of India, 1950 — Article 14

Citation : (2008) 2 JCR 382

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Final Decision : Allowed

Judgement

N.N. Tiwari, J.—In this writ application the petitioner has prayed for quashing the order dated 11.10.2006 (Annexure-7) whereby the petitioner has been transferred in the light of the letter No. 2520 dated 31.8.2006 (Annexure-6). The grievance of the petitioner is that the order issued by Annexure-6 is based on some allegations against the petitioner and on the basis thereof, the petitioner has been recommended to be transferred outside Ranchi by way of punishment without giving opportunity of proper hearing to the petitioner and without any application of mind on his reply to show-cause.

2. A counter-affidavit has been filed on behalf of the respondents clearly stating, inter alia, that the petitioner has been transferred by way of punishment for his own fault on violation of the condition of the permission granted by the Government. It has been stated that the show cause was asked from the petitioner and on consideration of the show cause reply submitted by the petitioner, the impugned order has been passed by way of punishment to the petitioner.

3. I have heard learned Counsel for the parties and perused the material available on record. From perusal of Annexure-6, by which the petitioner was recommended to be transferred outside Ranchi, there appears non-consideration and non-application of mind to the show cause reply submitted by the petitioner.

Annexure-6 does not contain anything on record to demonstrate that the explanation furnished by the petitioner has been considered on proper application of mind before passing the impugned order. The order is mechanical and non-speaking and is violative of Article 14 of the Constitution.

4. In the instant case, the impugned transfer order has been, admittedly, passed by way of punishment to the petitioner. But the same is not in conformity with the Constitutional provision and principle of natural justice. For the said reason, the impugned order dated 11.10.2006 (Annexure-7) is quashed. This writ petition is allowed.